

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: VOLKSWAGEN "CLEAN
DIESEL" MARKETING, SALES
PRACTICES, AND PRODUCTS
LIABILITY LITIGATION

MDL 2672 CRB (JSC)

**PRETRIAL ORDER NO. 11: PROTOCOL
FOR COMMON BENEFIT WORK AND
EXPENSES**

This Order Relates to:

ALL ACTIONS (except securities fraud actions)

In Pretrial Order No. 7 [Dkt. 1084], the Court appointed Plaintiffs' Lead Counsel and the Plaintiffs' Steering Committee. Pursuant to that Order, the Court now wishes to set specific guidelines and rules for work done and expenses incurred for the common benefit of all Plaintiffs in this MDL. Nothing in this Order shall be interpreted to affect any proceedings other than those involving the authorities, duties, responsibilities, guidelines, and rules of and for Plaintiffs' counsel, as discussed herein.

I. Adoption of Case Management Protocols for Common Benefit Work

The Court hereby adopts the following guidelines for the management of case-staffing, timekeeping, cost reimbursement, and related common benefit issues. The recovery of common benefit attorneys' fees and cost reimbursements will be limited to "Participating Counsel." "Participating Counsel" shall be defined as Lead Counsel and members of the Plaintiffs' Steering Committee (along with members and staff of their respective firms), any other counsel authorized

1 by Lead Counsel to perform work that may be considered for common benefit compensation,
 2 and/or counsel who have been specifically approved by this Court as Participating Counsel prior
 3 to incurring any such cost or expense.

4 Eligibility does not pre-determine payment. If and to the extent that this litigation is
 5 certified as a class action under Fed. R. Civ. P. 23 for purposes of resolution and/or trial, any
 6 award of fees and costs for common benefit work will be governed by the standards and
 7 procedures of Rule 23, including Rule 23(h). In any event, no award or payment of common
 8 benefit fees or costs shall be made without this Court's approval.

9
 10 Participating Counsel shall be eligible to receive common benefit attorneys' fees and
 11 reimbursement of costs and expenses only if the time expended, costs incurred, and activity in
 12 question were (a) for the common benefit of Plaintiffs; (b) timely submitted; and (c) reasonable.

13
 14 Participating Counsel, as defined above, shall agree to the terms and conditions herein,
 15 including submitting to this Court's jurisdiction and agreeing that this Court has plenary authority
 16 regarding the award and allocation of common benefit attorneys' fees and expense
 17 reimbursements in this matter.

18
 19 Lead Counsel will be responsible for collecting monthly common benefit time and
 20 expense submissions from Participating Counsel, auditing such submissions for compliance with
 21 the directives set forth in this Order, and informing Participating Counsel when their submissions
 22 do not comply with the directives set forth in this Order. Lead Counsel's auditing responsibility
 23 notwithstanding, the ultimate determination of what is compensable common benefit work, and
 24 the extent or rate at which it is compensable, is within the purview of the Court.

25
 26 In the event that Participating Counsel are unsure if the action they are about to undertake
 27 is considered Common Benefit Work, they shall ask Lead Counsel in advance as to whether such
 28 time may be compensable.

1 A. **Compensable Common Benefit Work**

2 “Common Benefit Work” includes all work done and expenses incurred that inure to the
3 common benefit of Plaintiffs in this MDL.

4 Examples of compensable and noncompensable work include, but are not limited to:

5 1. **Consolidated Pleadings and Briefs:** (i) factual and legal research and
6 preparation of consolidated class action complaints and related briefing;
7 (ii) responding to inquiries from class members; (iii) communications with
8 clients in response to Lead Counsel’s requests regarding proposed class
representatives; (iv) comments and suggestions regarding the consolidated
class action complaints; and (v) class-related issues and briefing related
thereto are compensable.

9 2. **Depositions:** While it is impracticable to impose inflexible rules to cover
10 every conceivable situation, Lead Counsel shall exercise discretion,
11 judgment, and prudence to designate only that number of attorneys to
12 participate in any given deposition that is commensurate with the nature of
13 that deposition so as to avoid over-staffing. Thus, for example, the
14 deposition of a causation expert proffered by Defendants would typically
15 justify the assignment of more attorneys than would the defense of the
16 deposition of one of Plaintiffs’ fact witnesses. Time and expenses for
17 Participating Counsel not designated as one of the authorized questioners
18 or otherwise authorized to attend the deposition by Lead Counsel may not
19 be considered Common Benefit Work but, rather, considered as attending
20 on behalf of such counsel’s individual clients. Unnecessary attendance by
21 counsel may not be compensated in any fee application to the Court.

22 3. **Periodic MDL Status Conferences:** The Court intends to hold periodic
23 status conferences to ensure that the litigation moves forward efficiently,
24 and that legal issues are resolved with guidance from or formal rulings by
25 the Court. Individual attorneys are free to attend any status conference held
26 in open court to stay up to date on the status of the litigation, but except for
Lead Counsel and members of the Plaintiffs’ Steering Committee or their
designees, attending and listening to such conferences is not compensable
Common Benefit Work. All attorneys have an obligation to keep
themselves informed about the litigation so that they can best represent
their respective clients. Mere attendance at a status conference will not be
considered common benefit time, and expenses incurred in relation thereto
will not be considered common benefit expenses. The attorneys designated
by Lead Counsel to address issues that will be raised at a given status
conference or requested by Lead Counsel to be present at a status
conference are working for the common benefit, and their time will be
considered for the common benefit. Similarly, any attorney whose
attendance at a status conference is specifically requested by the
undersigned (or by any other judge presiding over this matter or Court-
appointed Special Master) to address a common issue may submit his or
her time and expenses for such attendance for evaluation as Common
Benefit Work.

27 4. **Identification and Work-Up of Experts:** If a Participating Counsel
28 retains an expert without the knowledge and approval of Lead Counsel,

1 time and expenses attributable to the same may not be approved as
 2 Common Benefit Work. On the other hand, communications with and
 3 retention of experts with the knowledge and approval of Lead Counsel will
 4 be considered common benefit time.

5 **Attendance at Seminars:** Except as approved by Lead Counsel,
 6 attendance at seminars (e.g., American Association for Justice Section
 7 Meetings, Mass Torts Made Perfect, Harris Martin, and similar seminars
 8 and Continuing Legal Education programs) shall not qualify as Common
 9 Benefit Work, or the expenses pertaining thereto as Common Benefit
 10 Expenses.

11 **Discovery and Document Review:** Only discovery and document review
 12 authorized by Lead Counsel and assigned to an attorney or law firm will be
 13 considered Common Benefit Work. If a firm/attorney elects to review
 14 documents that have not been assigned to them by Lead Counsel, that
 15 review may not be considered Common Benefit Work. Descriptions
 16 associated with "document review" should contain sufficient detail to allow
 17 those reviewing the time entry to generally ascertain what was reviewed.
 18 For example, indicating the custodian, search query, or number of
 19 document folders reviewed is the kind of description needed.

20 **Review of Court Filings and Orders:** All attorneys have an obligation to
 21 keep themselves informed about the litigation so that they can best
 22 represent their respective clients, and review of briefs and filings made and
 23 Orders entered in this litigation is part of that obligation. Only Court-
 24 appointed Counsel and those attorneys working on assignments therefrom
 25 that require them to review, analyze, or summarize those filings or Orders
 26 in connection with their assignments are doing so for the common benefit.
 27 All other counsel are reviewing those filings and Orders for their own
 28 benefit and that of their respective clients and such review will not be
 29 considered Common Benefit Work.

30 **Emails and Correspondence:** Except for the Counsel appointed by the
 31 Court and their assigned attorneys and staff, time recorded for reviewing
 32 emails and other correspondence is not compensable unless germane to a
 33 specific task being performed by the receiving or sending attorney or party
 34 that is directly related to that email or other correspondence and that is for
 35 the common benefit of plaintiffs. Thus, for example, review of an email or
 36 other correspondence sent to dozens of attorneys to keep them informed on
 37 a matter on which they are not specifically working would not be
 38 compensable as Common Benefit Work. All attorneys have an obligation
 39 to keep themselves informed about the litigation so that they can best
 40 represent their clients and that is a reason to review emails and
 41 correspondence to a larger group, when they involve a matter on which the
 42 recipient is not directly and immediately working.

43 **B. Common Benefit Timekeeping Protocols**

44 All time must be accurately and contemporaneously maintained. Participating Counsel
 45 shall keep contemporaneous billing records of the time spent in connection with Common Benefit
 46 Work on this MDL, indicating with specificity the hours (in tenth-of-an-hour increments) and
 47

1 billing rate, along with a description of the particular activity (such as “conducted deposition of
 2 John Doe”).

3 Each time entry must be categorized using one of the categories in Exhibit A. In general,
 4 when possible, a more specific category should be used in place of a more general category.
 5 Under no circumstances should a submitting firm make up new categories for use in its
 6 submission.

7 While the categories are generally self-explanatory, below are some further explanations
 8 of some of the categories that may have the potential for the most confusion.

- 10 **1. Lead/PSC Duties (category 3)** – This category code should only be used
 11 for work done by Court-appointed Lead Counsel, members of the
 12 Plaintiffs’ Steering Committee, and their assigned attorneys and staff, in
 13 their capacity as Court-appointed Counsel. This category should be used
 14 primarily for Court-appointed Counsel’s more general or administrative
 15 responsibilities that do not fit into other, more specific categories. These
 16 include, but are not limited to, reviewing, analyzing, and summarizing
 17 filings and orders, or coordinating and designating non-Court-appointed
 18 attorneys to conduct common-benefit tasks such as document reviews,
 19 depositions, or work with experts. This category should not be used by any
 20 timekeeper who is not a Court-appointed Counsel or one of their assigned
 21 attorneys or staff.
- 22 **2. Administrative (4)** – This category should be used for internal filing and
 23 organizational tasks, such as reviewing and downloading documents from
 24 the ECF case docket(s), creating charts, reviewing filings generally,
 25 updating calendars, copying and distributing documents, drafting
 26 memoranda, etc., whether done by an attorney or staff. Please remember
 27 that the review of filings and orders to stay informed about the litigation is
 28 every attorney’s obligation, and time spent on such tasks is not
 29 compensable as Common Benefit Work for most timekeepers. See *supra*,
 30 II(A)(8).
- 31 **3. Discovery (8)** – Almost all common benefit discovery-related tasks should
 32 be coded with this category. The exceptions are: document review (which
 33 should be coded category 9), discovery-related motions or briefs (which
 34 should be coded category 12), discovery-related court appearances (which
 35 should be category 6), and preparation for and taking/defending
 36 depositions (which should be category 11).
- 37 **4. Document Review (9)** – For the purposes of this category, the word
 38 “document” specifically means documents or other information produced
 39 in discovery. In other words, this category is not to be used for every
 40 instance of reading a document – it is more specific than that. Only
 41 discovery document review specifically authorized by Lead Counsel and
 42 assigned to an attorney will be considered Common Benefit Work. See
 43 *supra*, II(A)(7). Time entry descriptions for document review tasks should

1 include specific details such as custodians, search query, number of
 2 document folders reviewed, or other similar details.

3

4

5. **Pleadings/Briefs/Pre-trial Motions/Legal Memoranda (12)** – All
 6 research and drafting time spent for a specific pleading, brief, motion, or
 7 similar legal writing should be coded in this category.

8

9. **Trial (17)** – This category is reserved solely for tasks performed during a
 10 trial.

11. **Miscellaneous (19)** – This is a general category that should not be used if a
 12 more specific category can be used instead. Any activities that are done in
 13 connection with or as part of a larger task like a brief, or a court
 14 appearance, or a meeting, should be categorized according to that larger
 15 task. This category should be used relatively infrequently; however, if it is
 16 used, it is critical that the description of the task be sufficiently detailed to
 17 make clear how the work was common benefit.

18 Should you have additional questions about particular timekeeping categories, please
 19 direct them to Lead Counsel. Under no circumstances should a submitting firm make up new
 20 categories for use in its submission.

21

22

23

24

25

26

27

28

C. Hourly Rates

29 Use your customary billing rates in your monthly time reports. Use of these rates does not
 30 guarantee their payment. The Court reserves the discretion to determine appropriate rates as the
 31 circumstances may warrant.

32

33

34

35

36

37

38

D. Common Benefit Expenses Protocol

39

40

41

42

43

44

45

46

47

48

49

50

51

52

53

54

55

56

57

58

59

60

61

62

63

64

65

66

67

68

69

70

71

72

73

74

75

76

77

78

79

80

81

82

83

84

85

86

87

88

89

90

91

92

93

94

95

96

97

98

99

100

101

102

103

104

105

106

107

108

109

110

111

112

113

114

115

116

117

118

119

120

121

122

123

124

125

126

127

128

129

130

131

132

133

134

135

136

137

138

139

140

141

142

143

144

145

146

147

148

149

150

151

152

153

154

155

156

157

158

159

160

161

162

163

164

165

166

167

168

169

170

171

172

173

174

175

176

177

178

179

180

181

182

183

184

185

186

187

188

189

190

191

192

193

194

195

196

197

198

199

200

201

202

203

204

205

206

207

208

209

210

211

212

213

214

215

216

217

218

219

220

221

222

223

224

225

226

227

228

229

230

231

232

233

234

235

236

237

238

239

240

241

242

243

244

245

246

247

248

249

250

251

252

253

254

255

256

257

258

259

260

261

262

263

264

265

266

267

268

269

270

271

272

273

274

275

276

277

278

279

280

281

282

283

284

285

286

287

288

289

290

291

292

293

294

295

296

297

298

299

300

301

302

303

304

305

306

307

308

309

310

311

312

313

314

315

316

317

318

319

320

321

322

323

324

325

326

327

328

329

330

331

332

333

334

335

336

337

338

339

340

341

342

343

344

345

346

347

348

349

350

351

352

353

354

355

356

357

358

359

360

361

362

363

364

365

366

367

368

369

370

371

372

373

374

375

376

377

378

379

380

381

382

383

384

385

386

387

388

389

390

391

392

393

394

395

396

397

398

399

400

401

402

403

404

405

406

407

408

409

410

411

412

413

414

415

416

417

418

419

420

421

422

423

424

425

426

427

428

429

430

431

432

433

434

435

436

437

438

439

440

441

442

443

444

445

446

447

448

449

450

451

452

453

454

455

456

457

458

459

460

461

462

463

464

465

466

467

468

469

470

471

472

473

474

475

476

477

478

479

480

481

482

483

484

485

486

487

488

489

490

491

492

493

494

495

496

497

498

499

500

501

502

503

504

505

506

507

508

509

510

511

512

513

514

515

516

517

518

519

520

521

522

523

524

525

526

527

528

529

530

531

532

533

534

535

536

537

538

539

540

541

542

543

544

545

546

547

548

549

550

551

552

553

554

555

556

557

558

559

560

561

562

563

564

565

566

567

568

569

570

571

572

573

574

575

576

577

578

579

580

581

582

583

584

585

586

587

588

589

590

591

592

593

594

595

596

597

598

599

600

601

602

603

604

605

606

607

608

609

610

611

612

613

614

615

616

617

618

619

620

621

622

623

624

625

626

627

628

629

630

631

632

633

634

635

636

637

638

639

640

641

642

643

644

645

646

647

648

649

650

651

652

653

654

655

656

657

658

659

660

661

662

663

664

665

666

667

668

669

670

671

672

673

674

675

676

677

678

679

680

681

682

683

684

685

686

687

688

689

690

691

692

693

694

695

696

697

698

699

700

701

702

703

704

705

706

707

708

709

710

711

712

713

714

715

716

717

718

719

720

721

722

723

724

725

726

727

728

729

730

731

732

733

734

735

736

737

738

739

740

741

742

743

744

745

746

747

748

749

750

751

752

753

754

755

756

757

758

759

760

761

762

763

764

765

766

767

768

769

770

771

772

773

774

775

776

777

778

779

780

781

782

783

784

785

786

787

788

789

790

791

792

793

794

795

796

797

798

799

800

801

802

803

804

805

806

807

808

809

810

811

812

813

814

815

816

817

818

819

820

821

822

823

824

825

826

827

828

829

830

831

832

833

834

835

836

837

838

839

840

841

842

843

844

845

846

847

848

849

850

851

852

853

854

855

856

857

858

859

860

861

862

863

864

865

866

867

868

869

870

871

872

873

874

875

876

877

878

879

880

881

882

883

884

885

886

887

888

889

890

891

892

893

894

895

896

897

898

899

900

901

902

903

904

905

906

907

908

909

910

911

912

913

914

915

916

917

918

919

920

921

922

923

924

925

926

927

928

929

930

931

932

933

934

935

936

937

938

939

940

941

942

943

944

945

946

947

948

949

950

951

952

953

954

955

956

957

958

959

960

961

962

963

964

965

966

967

968

969

970

971

972

973

974

975

976

977

978

979

980

981

982

983

984

985

986

987

988

989

990

991

992

993

994

995

996

997

998

999

1000

1001

1002

1003

1004

1005

1006

1007

1008

1009

1010

1011

1012

1013

1014

1015

1016

1017

1018

1019

1020

1021

1022

1023

1024

1025

1026

1027

1028

1029

1030

1031

1032

1033

1034

1035

1036

1037

1038

1039

1040

1041

1042

1043

1044

1045

1046

1047

1048

1049

1050

1051

1052

1053

1054

1055

1056

1057

1058

1059

1060

1061

1062

1063

1064

1065

1066

1067

1068

1069

1070

1071

1072

1073

1074

1075

1076

1077

1078

1079

1080

1081

1082

1083

1084

1085

1086

1087

1088

1089

1090

1091

1092

1093

1094

1095

1096

1097

1098

1099

1100

1101

1102

1103

1104

1105

1106

1107

1108

1109

1110

1111

1112

1113

1114

1115

1116

1117

1118

1119

1120

1121

1122

1123

1124

1125

1126

1127

1128

1129

1130

1131

1132

1133

1134

1135

1136

1137

1138

1139

1140

1141

1142

1143

1144

1145

1146

1147

1148

1149

1150

1151

1152

1153

1154

1155

1156

1157

1158

1159

1160

1161

1162

1163

1164

1165

1166

1167

1168

1169

1170

1171

1172

1173

1174

1175

1176

1177

1178

1179

1180

1181

1182

1183

1184

1185

1186

1187

1188

1189

1190

1191

1192

1193

1194

1195

1196

1197

1198

1199

1200

1201

1202

1203

1204

1205

1206

1207

1208

1209

1210

1211

1212

1213

1214

1215

1216

1217

1218

1219

1220

1221

1222

1223

1224

1225

1226

1227

1228

1229

1230

1231

1232

1233

1234

1235

1236

1237

1238

1239

1240

1241

1242

1243

1244

1245

1246

1247

1248

1249

1250

1251

1252

1253

1254

1255

1256

1257

1258

1259

1260

1261

1262

1263

1264

1265

1266

1267

1268

1269

1270

1271

1272

1273

1274

1275

1276

1277

1278

1279

1280

1281

1282

1283

1284

1285

1286

1287

1288

1289

1290

1291

1292

1293

1294

1295

1296

1297

1298

1299

1300

1301

1302

1303

1304

1305

1306

1307

1308

1309

1310

1311

1312

1313

1314

1315

1316

1317

1318

1319

1320

1321

1322

1323

1324

1325

132

1 Shared Costs are costs incurred for the common benefit of Plaintiffs in this MDL as a
 2 whole. No client-related costs, save certain costs relating to future cases selected as bellwether
 3 cases that will be for the common benefit (e.g., related to liability and causation), shall be
 4 considered Shared Costs, unless exceptional circumstances exist and are approved by later order
 5 of this Court. All Shared Costs must be approved by Lead Counsel prior to payment.
 6

7 All costs that meet these requirements and fall under the following categories shall be
 8 considered Shared Costs and qualify for submission and payment directly from the Fund:

- 9 • Court, filing, and service costs related to common issues;
- 10 • Court reporter and interpreter costs for depositions;
- 11 • Document (both electronic and hard copy) depository creation, operation,
 staffing, equipment, and administration;
- 12 • Lead Counsel or Plaintiffs' Steering Committee out-of-house or
 extraordinary administration matters (e.g., expenses for equipment,
 technology, courier services, long distance, telecopier, electronic service,
 photocopy and printing, secretarial/temporary staff, meetings and
 conference calls, etc.);
- 13 • Legal, tax, and accountant fees relating to the Fund;
- 14 • Expert witness and consultant fees and expenses for experts whose
 opinions and testimony would be generic and for the common benefit of a
 substantial number of cases. There shall be no reimbursement for case-
 specific experts, except for liability and causation experts in bellwether
 cases, with the approval of Lead Counsel;
- 15 • Printing, copying, coding, and scanning related to the above (only out-of-
 house or extraordinary firm costs);
- 16 • Research by outside third-party vendors/consultants/attorneys, approved by
 Lead Counsel;
- 17 • Translation costs related to the above, approved by Lead Counsel;
- 18 • Bank or financial institution charges relating to the Fun;
- 19 • Investigative services, approved by Lead Counsel; and
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

1 • Any assessment paid by Lead Counsel, by any member firm of Plaintiffs' 2
Steering Committee, or by a non-PSC firm from whom as assessment was 3
requested by Lead Counsel.

4 Lead Counsel shall prepare and be responsible for distributing reimbursement procedures 5
and the forms associated therewith. Requests for payments from the Fund for Common Benefit 6
expenses shall include sufficient information to permit Lead Counsel and a Certified Public 7
Accountant ("CPA") to account properly for costs and to provide adequate detail to the Court if 8
necessary.

9 **2. Held Costs**

10 "held Costs" are those that will be carried by each attorney in this MDL and reimbursed 11
as and when Lead Counsel determines to do so. Held Costs are those that do not fall into the 12
above Shared Costs categories but are incurred for the common benefit of all plaintiffs in this 13
MDL. No client-specific costs can be considered Held Costs, other than certain Common Benefit 14
costs relating to class representatives and future bellwether cases at the discretion of Lead 15
Counsel and Plaintiffs' Steering Committee. Held Costs shall be recorded in accordance with the 16
guidelines set forth herein and on the form provided as Addendum B hereto.

18 Held Costs shall be subject to the following limitations:

19 **3. Travel Limitations**

20 Only reasonable expenses will be reimbursed. Except in unusual circumstances approved 21
by Lead Counsel, all travel reimbursements are subject to the following limitations:

22 • **Airfare:** For routine domestic flights, ordinarily only the price of a 23
refundable, changeable and convenient coach fare seat or its 24
equivalent will be reimbursed. For international travel or 25
transcontinental flights with a total duration exceeding four hours, 26
business class, or if business class is not available, first class, may
be reimbursed at Lead Counsel's discretion. Private or charter
travel will not be reimbursed except in unusual circumstances, as
approved by Lead Counsel.

27 • **Hotel:** Hotel room charges for the average available room rate of a 28
reasonable business hotel will be reimbursed.

- 1 • **Meals:** Meal expenses must be reasonable. Unusually large meal
2 expenses may be reviewed by Lead Counsel and disallowed.
- 3 • **Cash Expenses:** Miscellaneous cash expenses for which receipts
4 generally are not available (e.g., tips, luggage handling) will be
 reimbursed up to \$50.00 per trip, as long as the expenses are
 properly itemized.
- 5 • **Automobile Rental:** Automobile rentals must be reasonable for the
 date and location of the rental.
- 6 • **Mileage:** Mileage claims must be documented by stating
7 origination point, destination, and total actual miles for each trip.
8 The rate will be the maximum rate allowed by the Internal Revenue
 Service.

9 4. **Non-Travel Limitations**

- 10 • **Long Distance, Conference Call, and Cellular Telephone
11 Charges:** Common Benefit long distance, conference call, and
 cellular telephone charges are to be reported at actual cost.
- 12 • **Shipping, Overnight, Courier, and Delivery Charges:** All
13 claimed Common Benefit shipping, overnight, courier, or delivery
 expenses must be documented with bills showing the sender, origin
 of the package, recipient, and destination of the package. Such
14 charges are to be reported at actual cost.
- 15 • **Postage Charges:** Common Benefit postage charges are to be
16 reported at actual cost.
- 17 • **Telefax Charges:** Common Benefit fax charges shall not exceed
 \$0.50 per page.
- 18 • **In-House Photocopy:** The maximum charge for Common Benefit
19 in-house copies is \$0.15 per page.
- 20 • **Computerized Research- Lexis, Westlaw, or Bloomberg:** Claims
21 for Lexis, Westlaw, Bloomberg, or other computerized legal
 research expenses should be in the actual amount charged to the
 firm and appropriately allocated for these research services.

22 No entry should contain more than one category of expense when practical, and no entry
23 should have more than one expense category code assigned to it. If, on the same day, one person
24 incurs two expenses that fall into two different categories, then there should be two separate
25 entries for that person for that date, each with the appropriate expense description and category
26 code.

1 Similarly, when practical no listed expense entry should include expenses incurred by
 2 more than one person. If multiple people incur the same expense for the same category, then
 3 generally there should be a separate entry for each person, unless a single person paid the expense
 4 for multiple people.

5 Every expense entry should be as detailed and specific as reasonably practical.
 6 Descriptions such as “Filing and Service Fees,” “Service of Process,” “Plane Ticket,”
 7 “Investigation Fees,” “Hearing Transcript,” and “Deposition Services” are not sufficient. Every
 8 entry must describe the task for which the expense was incurred in enough detail to reasonably
 9 identify what the expense was, who incurred it, why it was incurred, and how it related to
 10 Common Benefit Work. For example: What was filed and on behalf of whom? Who was served
 11 with what document and on behalf of whom? What hearing transcript was requested and for what
 12 purpose? For whom was the plane ticket purchased, for air travel from where to where, on what
 13 dates of travel? (The same goes for hotels, taxis, car services, tips, meals, and any other travel-
 14 related expenses.) Expense entries without sufficient detail may be rejected at Lead Counsel’s
 15 discretion.

16 Attorneys shall provide receipts for all expenses. This does not mean that receipts are to
 17 be provided “upon request” – it means each firm must provide receipts monthly along with their
 18 expense submissions, in PDF form, not hard copy. Credit card receipts (not the monthly
 19 statements) are an appropriate form of verification. Hotel costs must be proven with the full hotel
 20 invoice. The description of unclaimed expenses on the invoice may be redacted.

21 **E. Protocols for Submission of Time and Expenses**

22 **1. Format**

1 For Lead Counsel to maintain all time submissions in a fully sortable and searchable
2 format, all of the time and expense submissions must be provided by submitting counsel in the
3 following format.

4 1. Counsel must use the Excel forms provided as Exhibits to this Order. This means
5 that each monthly submission will consist of one Excel file, within which there will be four
6 “sheets” (marked by tabs at the bottom): “Expense Report,” “Supplemental Expense Report,”
7 “Monthly Time Report,” and “Monthly Time Report Totals.”

8 2. In the “Monthly Time Report,” the person who performed each task should be
9 identified in the column called “Last Name, First Name” by their complete last name, a comma,
10 and their complete first name (e.g. Smith, John). Please do not use abbreviations or initials in this
11 column.

12 3. In all reports, the date must be provided in month/day/year format (e.g., 10/23/14).

13 **2. Deadlines**

14 Time submissions shall be made to Lead Counsel on a monthly basis, by deadlines and in
15 accordance with the guidelines set forth herein. The first submission is due on April 15, 2016 and
16 should include all time and expense from inception of work on clean-diesel-VW-emissions-
17 related litigation through March 31, 2016. After this first submission, each monthly submission
18 should include all common benefit time and expenses incurred from the first to the last day of the
19 preceding month (e.g. the submission due May 15, 2016, should contain all common benefit time
20 and expenses incurred from April 1, 2016, through April 30, 2016).

21 Although counsel should endeavor to submit all common benefit expenses incurred in a
22 certain month in the submission made on the 15th of the next month, the realities of third-party
23 billing and credit card statement schedules may make such quick expense submission difficult in
24 some circumstances. Thus submissions of “supplemental” common benefit expense reports will
25

1 be permitted for those expenses incurred during the previous six months that – because of
2 circumstances outside the submitting counsel’s control – could not have been submitted by the
3 deadline. Any common benefit expenses submitted more than six months in arrears may not be
4 considered or included in any compilation of common benefit expense calculation and may be
5 disallowed, except for good cause shown and with approval of Lead Counsel.
6

7 Supplemental submissions of common benefit time will be permitted only for good cause
8 shown and with the approval of Lead Counsel.

9 **IT IS SO ORDERED.**

10 Dated: February 25, 2016



CHARLES R. BREYER
United States District Judge

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ADDENDUM A

**IN RE VOLKSWAGEN CLEAN DIESEL LITIGATION
MONTHLY TIME REPORT**

Firm Name: _____
Date _____

Categories: 1. Lead Counsel Calls/Meetings 2. PSC Calls/Meetings 3. Lead Counsel/PSC Duties 4. Administrative 5. MDL Status Conf. 6. Court Appearance 7. Research 8. Discovery 9. Doc. Review 10. Litigation Strategy & Analysis 11. Dep: Prep/Take/Defend 12. Pleadings/Briefs/Pre-trial Motions/Legal 13. Science 14. Experts/Consultants 15. Settlement 16. Trial Prep/Bellwether 17. Trial 18. Appeal 19. Miscellaneous (describe)

Category Name	Total Time per Category	Total Fees per Category
Lead Counsel Calls/Meeting		
PSC Calls/Meeting		
Lead Counsel/PSC Duties		
Administrative		
MDL Status Conf.		
Court Appearance		
Research		
Discovery		
Doc. Review		
Litigation Strategy & Analysis		
Dep: Prep/Take/Defend		
Pleadings/Briefs, Pretrial Motions, Legal		
Science		
Experts/Consultants		
Settlement		
Trial Prep/Bellwether		
Trial		
Appeal		
Miscellaneous		
Total:		

ADDENDUM B

IN RE VOLKSWAGEN CLEAN DIESEL LITIGATION Expense Report for

Law Firm

Categories: 1. Assessment Fees 2. Federal Express / Local Courier, etc. 3. Postage Charges 4. Facsimile Charges 5. Long Distance 6. In-House Photocopying
7. Outside Photocopying 8. Hotels 9. Meals 10. Mileage 11. Air Travel 12. Deposition Costs 13. Lexis/Westlaw 14. Court Fees 15. Witness / Expert Fees
16. Investigation Fees / Service Fees 17. Transcripts 18. Ground Transportation (*i.e.* Rental, Taxis, etc.) 19. Miscellaneous (Describe)

***** ALL ORIGINAL RECEIPTS MUST BE ATTACHED TO THIS EXPENSE SHEET *****